

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 04-10165-RCL
)	
TONY GOMES TEIXEIRA)	

GOVERNMENT'S TRIAL BRIEF

The government has charged defendant Tony Gomes Teixeira ("Teixeira") in a one-count Superseding Indictment with being a felon-in-possession of a firearm and ammunition, in violation of 18 U.S.C. §922(g)(1). The case arose out of a car stop conducted in the City of Brockton by two state police troopers. Other than establishing the prior felony conviction (presumably by stipulation), that the firearm and ammunition were real, and the interstate origin of the firearm and ammunition, the government's entire case will consist of the testimony of the two arresting officers. The government expects its evidence to take no more than two days. Because of a pre-arranged vacation trip, one of the arresting officers will have to be on and off the stand no later than Tuesday, May 17, 2005.

The government is not aware of any particular evidentiary issues that can not be routinely considered by this Court during the course of trial. Teixeira's pretrial suppression motion was denied by the Court, so there are no admissibility issues pertaining to the introduction of the gun and ammunition

recovered from the vehicle in which Teixeira was riding at the time of his arrest, or his statements to officers thereafter. A summary of the government's expected evidence from the arresting officers is as follows.

On Monday, April 5, 2004, at approximately 6:30 pm, Massachusetts State Troopers Telford and Jackson were on vehicle patrol in the City of Brockton. They observed a gray Nissan Altima (the "Altima") traveling on Clinton Street at a high rate of speed. They clocked the vehicle at a speed in excess of 41 mph for over a quarter of a mile in a posted 30 mph zone. The troopers activated their emergency lights and pulled the Altima to the side of the road.

Trooper Telford approached the driver's side of the Altima, while Trooper Jackson approached the passenger side of the vehicle. There were three occupants in the vehicle, the driver, the front passenger, and a passenger in the right rear passenger seat, later identified as Teixeira. The driver rolled down his window and Trooper Telford immediately detected the odor of freshly burned marijuana and ordered the driver out of the vehicle. Trooper Jackson also ordered the two passengers to exit the car.

Trooper Jackson searched the interior passenger compartment of the Altima. He discovered some seeds and green leafy flakes

in the center console and on the floor of the vehicle.¹ In the rear passenger compartment, Trooper Jackson found in the back pocket of the right front passenger seat a black handgun. While the three occupants were being handcuffed, Teixeira stated: "It's my gun, they know nothing about it."

Trooper Jackson then placed Teixeira in the rear of the police cruiser and advised him of his Miranda rights, which Teixeira said he understood. The handgun was then determined to be a semi-automatic Glock 9mm with a defaced serial number on the frame. The magazine contained ten rounds of ammunition. The chamber was empty. When Trooper Jackson asked Teixeira about the gun (after Miranda warnings had been given), Teixeira stated: it was a "Glock 17, 9mm with ten bullets in the clip. There isn't one down the pipe."

During the transport of Teixeira to Brockton Police Department, Teixeira stated that he found the gun on the side of Glennwood Street and had brought it with him that evening in his left front jacket pocket, but that he had hid it behind the right

¹The government expects to have Trooper Jackson testify to his familiarity with the texture and smell of marijuana and to say that the vegetable matter in the Altima was marijuana. The government has produced to Teixeira a state chemist's report confirming that to be the case. However, unless Teixeira contests that the troopers smelled marijuana upon approaching the vehicle, the government does not intend to call the state chemist.

front passenger seat when he was pulled over by the troopers.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Timothy Q. Feeley
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May 1, 2005

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2005, I will serve a copy of the foregoing on counsel for the defendant, C. Samuel Sutter, Esq. 203 Plymouth Avenue, Building 7, 1st Floor, Fall River, MA 02721, by hand.

/s/ Timothy Q. Feeley
Timothy Q. Feeley
Assistant U.S. Attorney